



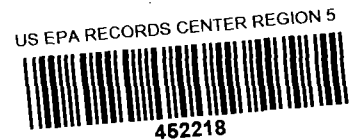
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

OCT 31 2002

By Facsimile and Certified Mail
Return Receipt Requested



REPLY TO THE ATTENTION OF:

PRP Group/Blue Tee, Inc.
Old American Zinc Plant (OAZ) Superfund Site
c/o: Terri Faye, Esq.
Babst, Calland, Clement & Zomnir, PC
1 North Maple Ave.
Greensburg, PA 15601

C-14J

RE: Old American Zinc Plant (OAZ) Superfund Site: Clarification on Technical Assistance Provisions

Dear Counsels:

On October 17, 2002, the United States Environmental Protection Agency (US EPA or "the Agency") sent you a letter proposing amendments to the draft Administrative Order on Consent (AOC) for Remedial Investigation and Feasibility Studies (RI/FS) at the OAZ Superfund Site. We wish to provide additional background on the proposed amendments, to clarify certain statements in the October 17th letter and to propose revised language for the paragraph on Community Relations (Section VIII, Para. 27B, Task II).

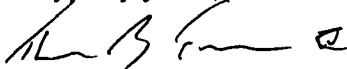
US EPA considers the OAZ Site to be a "Superfund Alternative site" because the Site is eligible for listing on the National Priorities List (NPL) and requires long-term response but is not yet listed. The Agency's goal is to ensure that settlements at Superfund Alternative sites achieve cleanups equivalent to those required at NPL sites. Toward that end, US EPA recently developed a guidance document titled, "Response Selection and Enforcement Approach for Superfund Alternative Sites," (the "SAS Guidance") which identifies certain provisions to be included in settlements at Superfund Alternative sites. At our August 28, 2002 meeting, we provided you with copies of the SAS Guidance and proposed language (a "technical assistance provision") to be added to the Community Relations paragraph in the AOC at the OAZ Site.

In our October 17th letter, US EPA proposed slightly revised language for the technical assistance provision. Significantly, the Agency changed the word "should" to "shall" to indicate that the technical assistance provision represents a firm obligation rather than a recommended action. US EPA never intended to suggest that the SAS Guidance sets forth mandatory obligations for Superfund Alternative sites or that the technical assistance provision must be placed in AOCs and Statements of Work (SOWs) for RI/FS. In fact, where the Region believes a provision identified in the SAS Guidance is not necessary for inclusion in their settlement, the Guidance provides a process whereby the Region contacts Headquarters to discuss deletion or amendment of the provision.

As indicated by our proposal at the August 28th meeting, Region 5 feels it is appropriate to include a technical assistance provision in the settlement for the OAZ Site. Such a provision will ensure that the opportunities for community involvement are equivalent to the opportunities at a site listed on the NPL. After providing the draft language, however, we recognized that our intention to have you commit to providing technical assistance would require the word "should" be changed to "shall." We understand that you are not satisfied with the proposed language to date and would like to work with you to achieve a mutually acceptable provision. Toward that end, we have included revised language as an attachment to this letter. This revised language reflects a broader effort by US EPA to provide guidance on technical assistance provisions in settlements at Superfund Alternative sites. In fact, the Agency currently is drafting a guidance document that discusses Technical Assistance Plans (TAPs) in detail, and which will include sample language for relevant documents such as settlement agreements.

Please consult with your clients about this revised language. I will contact you early next week to answer any questions or concerns. You may also reach me by email (Turner.Thomas@epa.gov) or by phone at 312-886-6613.

Very truly yours,



Tom Turner
Associate Regional Counsel

cc: R. Murawski, RPM - US EPA
L.C. Cuffman, Enf. Spec. - US EPA

Dan Pinkston, Esq. (for PRP Group / GSA)
U.S. DOJ-ENRD/EDS

Mike Steinberg, Esq. (for PRP Group/XTRA Intermodal, Inc.)
Morgan Lewis & Bockius - Washington, DC

Attachment 1

Revised Language for Section VIII, Paragraph 27B, Task II.

[US EPA proposes that the first sentence remain as is, to be followed by the following language:]

When requested by EPA, Respondent(s) also shall provide EPA with the following deliverable:

1. Technical Assistance Plan: Within 30 days of a request by EPA, Respondent shall provide EPA with a Technical Assistance Plan (TAP) for providing and administering \$50,000 of Respondent's funds to be used by selected representatives of the community to hire independent technical advisors during the Work conducted pursuant to this Consent Order. The TAP shall state that Respondent will provide and administer any additional amounts needed if the selected community group demonstrates such a need prior to EPA's issuance of this ROD. If EPA disapproves of or requires revisions to the TAP, in whole or in part, Respondent(s) shall amend and submit to EPA a revised TAP that is responsive to EPA's comments, within __ days of receiving EPA's comments.